

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.123 OF 2002

Kakasaheb Mahadeo Kambale ...Applicant

Versus

Pravin Banakram Jawale ...Respondent

Shri U.P.Warunjikar for the Applicant.

Shri S.R.Shinde, A.P.P for the State.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 30, 2006.

P.C.:

1. Heard Shri Warunjikar for the Applicant. The Applicant is arraigned as an accused in a private complaint filed by the first Respondent alleging commission of offence under section 500 of the Indian Penal Code. The Applicant made an Application before the learned Magistrate for cancellation/ withdrawal and/ or for quashing of the order issuing process passed on the said complaint. By the order impugned in this Application, the said Application has been rejected.

2. In view of the settled position of law, the said Application made by the Applicant before the Trial

Court was not maintainable. Thus, I find no error in the order impugned by which the said Application was rejected.

3. Shri Warunjikar appearing for the Applicant submitted that the earlier view taken by the Apex Court was that such Application was maintainable and therefore, the Applicant was advised to make such Application in the year 1995. He submits that rejection of this Application should not affect other remedies available to the Applicant in accordance with law.

4. I am rejecting this Application only on the ground that the Application made by the Applicant was not maintainable in view of the decision of the Apex Court in the case of Adalat Prasad Vs. Rooplal Jindal & Ors. (2004 Supreme Court Cases (Cri.) Page 1927. No adjudication is made by this Court on the merits of the complaint. It is obvious that notwithstanding rejection of this Application, other remedy, if any, available to the Applicant will not be affected.

5. Subject to what is stated above, Application is

rejected.

JUDGE